

## TEXT OF REGULATIONS

In the following text, underlining indicates amended or adopted language, strikethrough indicates deleted language.

Section 3025 is amended to read:

### **3025. Department of Justice DNA and Forensic Identification DataBase and Data Bank Program.**

Subsection 3025(a) is amended to read:

(a) All inmates and parolees, including juveniles, committed to the custody of the department after having been convicted of, found guilty of, having pled guilty or no contest to, or having been found not guilty by reason of insanity for, any offense listed in Penal Code (PC) section 296(a), or whose records indicate a prior conviction for such an offense, shall provide all of the following required specimens, to be forwarded ~~submitted~~ to the Department of Justice (DOJ) as soon as administratively practicable:

- ~~(1) Two Blood Specimens.~~
- ~~(12) One Buccal Swab Saliva Samples.~~
- ~~(23) Two Right ThumbpPrint Impressions.~~
- ~~(34) Full Right and Left Full Palm Print Impressions.~~
- ~~(45) Writer's Palm Print Impression.~~
- (5) Any Blood Specimens or other Biological Samples required.

Subsection 3025(b) is amended to read:

(b) The listed specimens shall be provided under the following circumstances, unless the inmate's central file or other records indicate that all required specimens have already been obtained:

(1) Whether or not the offense predated the enactment of the DNA and Forensic Identification DataBase and Data Bank Act of 1998, or any amendments to it; including the DNA, Fingerprint, Unresolved Crime and Innocence Protection Act.

(2) Whether or not the court advised the convicted person of this requirement;

~~(3) Whether or not the punishment for the offense was stayed; however, offenses which have been stricken or dismissed shall not require collection of these specimens;~~

~~(34)~~ If the inmate or parolee was convicted of a state or federal offense in another state which would constitute an offense as listed in PC section 296(a);

(45) If notification is received from the DOJ that an inmate's or parolee's specimens already taken for any purpose are not usable for any reason.

~~(6) Whether or not the offender was a juvenile or adjudged a ward of the court at the time of the offense;~~

**New subsection 3025(c) is adopted to read:**

(c) DOJ DNA laboratory may obtain blood specimens from qualifying persons as defined in PC section 296(a) when it is determined that such specimens are necessary in a particular case or would aid the DOJ in obtaining an accurate forensic DNA profile for identification purposes. Cases requiring blood specimens include, but are not limited to, buccal swab samples that cannot be properly identified or analyzed by DOJ, or if the inmate refuses to submit to DNA buccal swab collection, and/or print impressions.

**Existing subsections 3025(c) through (k) are renumbered to 3025(d) through (l) respectively and amended to read:**

(ed) Newly committed inmates and persons returned to custody based upon a violation of parole, furlough or any other type of release, who meet the criteria established in PC Ssection 269 296(a), shall, provide the required specimens, samples and print impressions while at during the reception center process or ~~as soon as practicable~~ reasonably promptly after their transfer to an institution/facility.

(de) Parolees identified as meeting the criteria established in PC Ssection 296(a) for present and past qualifying offenses, shall provide the required specimens, samples and print impressions within five days of notification by the court, or by parole unit staff at a collection location designated in accordance with PC section 296.1(a)(3)(B) ~~by the local law enforcement agency, as notified by parole unit staff.~~

(ef) Only medical staff trained and certified to do so shall draw blood for collection of specimens; ~~the drawing of blood samples shall be done~~ in accordance with standard ~~medical standards~~ practices. The specimens, samples, and print impressions collected pursuant to Penal Code, Part 1, Title 9, Chapter 6, Articles 1 through 7 (sections 295 et seq.), shall be forwarded promptly ~~immediately~~ to the DOJ. ~~Saliva samples shall be deposited on~~ The collection kit, including all blood specimen vials, buccal swabs collectors, mailing tubes, labels and instructions for the collection shall be provided by the DOJ. A right thumbprint, a full palm print impression of each hand, and the writers palm print impression shall be taken on forms prescribed by the DOJ. The palm print forms shall be forwarded to and maintained by the Bureau of Criminal Identification and Information of the DOJ. If a blood specimen is necessary pursuant to subsection (c), ~~R~~ight thumbprints also shall be taken at the time of the

~~withdrawal~~ collection of blood samples and specimens, and shall be placed on the samples and specimen containers and forms as directed by DOJ and the blood vial label. The ~~blood vial and thumbprint~~ samples, specimens and forms shall be forwarded to and maintained by the DNA Laboratory of the DOJ.

(fg) Only trained, designated medical, custody, parole staff and/or local law enforcement shall handle forms or specimens after their collection.

(gh) If a person has been convicted of a state or federal offense which would constitute an offense as listed in PC section 296(a) and is transferred or paroled from another state into California, an agreement to provide these specimens shall be made a condition of acceptance for supervision in this state.

(hi) Any inmate or parolee who refuses to provide ~~give~~ any or all of the following: blood specimens, ~~saliva-buccal swab~~ samples, or thumb or palm print impressions as required by Penal Code, Part 1, Title 9, Chapter 6, Articles 1 through 7 (sections 295 et seq.), after he or she has received written notice that he or she is required to provide specimens, samples, and print impressions is guilty of a misdemeanor. An inmate who refuses shall also be subject to progressive discipline pursuant to California Code of Regulations, Title 15, Division 3, Chapter 1, Subchapter 4, Article 5 (~~§~~section 3310 et seq.).

(ij) The use of reasonable force, as defined in ~~§~~section 3268(a)(1), shall not be authorized without the prior written authorization at the level of Facility/Correctional Captain or higher, or the administrative officer on duty. The authorization shall include information that reflects the fact that the offender was asked to provide the requisite specimen, sample, or impressions as required by law, and that he or she refused to do so.

(jk) The use of reasonable force, as defined in ~~§~~section 3268(a)(1), shall be preceded by efforts to secure voluntary compliance.

(kl) If the use of reasonable force to obtain DNA includes a cell extraction, the extraction shall be videotaped. The videotaping shall depict all correctional personnel directly involved and the advisement to the inmate that the requisite specimen, sample or impressions is required. All incidents that required the use of reasonable force to obtain DNA samples shall be tracked and maintained by the institutional DNA coordinator and forwarded to the assistant director, Law Enforcement Investigative Unit (LEIU).

(m) Any person described in section 3025(a), pursuant to PC section 298.2, who engages or attempts to engage in any of the following acts is guilty of a felony:

(1) Knowingly aids in the wrongful collection of a required specimen, sample, or print impression, with the intent to deceive as to the origin of a DNA profile.

(2) Knowingly tampers with any specimen, sample, print impression, or the collection container, with the intent to deceive as to the identification of the person.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 295 through 300.3 and 5054, Penal Code.